

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOE L. AMERSON,
Plaintiff,

vs.

PRESIDENT, FIDELITY
INVESTMENT, CO.,
Defendant.

Case No. 1:13-cv-918

Black, J.
Bowman, M.J.

**REPORT AND
RECOMMENDATION**

This matter is before the Court on plaintiff's motion for leave to proceed *in forma pauperis* brought in connection with a motion to remove his case to federal court. (Doc. 1). Mr. Amerson is a plaintiff in a state court action in the Hamilton County Court of Common Pleas. *See Amerson v. Unknown President of Fidelity Investment*, Case No. A1209748 (filed Dec. 20, 2012).

Removal of civil actions is governed by 28 U.S.C. § 1441. Section 1441 provides, “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). Because Mr. Amerson is the plaintiff in the state court action he may not remove his case from state to federal court. *See Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104 (1941).

Accordingly, Mr. Amerson's motion for leave to proceed *in forma pauperis* and his motion to remove his case to federal court should be denied.

IT IS THEREFORE RECOMMENDED THAT:

1. Mr. Amersons's motion for leave to proceed *in forma pauperis* and motion to remove his case to federal court (Doc. 1) be **DENIED**.
2. The Clerk of Court be **DIRECTED** to forward a copy of any Order adopting this Report and Recommendation to the Hamilton County Clerk of Courts.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation ("R&R") within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).